

AMENDED IN SENATE JULY 15, 2010

AMENDED IN ASSEMBLY MAY 17, 2010

AMENDED IN ASSEMBLY APRIL 27, 2010

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2703

Introduced by Assembly Member John A. Pérez

February 19, 2010

An act to add ~~Section 8879.79 to the Government~~ *Chapter 20.1 (commencing with Section 2704.30) to Division 3 of the Streets and Highways Code*, relating to transportation, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2703, as amended, John A. Pérez. ~~Federal transportation economic stimulus funds: 2nd round. Transportation: bond-funded projects: letter of no prejudice.~~

Existing law, the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century, provides for the issuance of \$9.95 billion in general obligation bonds for high-speed rail and related purposes, including \$950 million to be allocated by the California Transportation Commission to eligible recipients for capital improvements to intercity and commuter rail lines and urban rail transit systems in connection with or otherwise related to the high-speed train system.

Existing law, with respect to the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, a \$19.925 billion general obligation bond act for transportation and related purposes,

authorizes a regional or local agency to apply for a letter of no prejudice that makes that agency eligible to expend funds under its control for a project or project component that has been designated to receive bond funding and to be subsequently reimbursed from bond funds for that expenditure when bond funds become available.

This bill would allow an eligible regional or local agency to also apply to the California Transportation Commission for a letter of no prejudice relating to projects to be funded under the \$950 million allocated to eligible regional or local agencies under the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century. The bill would authorize the commission to develop guidelines to implement these provisions.

~~Existing law establishes special procedures and formulas for allocation and expenditure of federal transportation economic stimulus funds awarded to the state in 2009. Under these provisions, the Department of Transportation, with the approval of the Department of Finance, may make a loan or loans from a specified portion of those federal funds for the purpose of advancing projects meeting certain criteria that otherwise would be funded from the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, a general obligation bond measure approved by the voters in November 2006 as Proposition 1B.~~

~~This bill would provide similar authority to advance those projects with loans of federal funds awarded to the state in 2010 under the 2nd round of federal transportation economic stimulus funds. In order to be eligible for an advance, a project would need to have been programmed for Proposition 1B bond funds by May 1, 2010, and be ready to be awarded within 90 days of federal apportionment. Upon repayment of the loans, these funds would be available for appropriation by the Legislature for the State Highway Operation and Protection Program.~~

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

~~Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.~~

The people of the State of California do enact as follows:

- 1 *SECTION 1. Chapter 20.1 (commencing with Section 2704.30)*
- 2 *is added to Division 3 of the Streets and Highways Code, to read:*

1 *CHAPTER 20.1. IMPLEMENTATION OF THE SAFE, RELIABLE*
2 *HIGH-SPEED PASSENGER TRAIN BOND ACT FOR THE 21ST CENTURY*

3
4 2704.30. (a) An eligible recipient for funds pursuant to Section
5 2704.095 that is a regional or local agency may apply to the
6 California Transportation Commission for a letter of no prejudice
7 for a project or a component of a project to be undertaken with
8 those funds. The commission may approve the letter of no prejudice
9 for one or more projects or project components that the commission
10 has programmed or otherwise approved for funding. The letter of
11 no prejudice shall reference the project or component thereof and
12 the amount of bond funding that is programmed or otherwise
13 approved for that project or project component. The commission
14 may approve a letter of no prejudice regardless of whether bond
15 funding has been previously appropriated for purposes of the
16 project or project component.

17 (b) Expenditures for the costs, up to the amount set forth in the
18 letter of no prejudice, of a project or project component for which
19 a letter of no prejudice has been issued shall be eligible for
20 reimbursement from the High-Speed Passenger Train Bond Fund
21 if all of the following apply:

22 (1) The project or project component for which the letter of no
23 prejudice was requested has commenced and the regional or local
24 expenditures have been incurred.

25 (2) The expenditures made by the regional or local agency are
26 eligible for reimbursement in accordance with state and federal
27 laws and procedures, and are permitted expenditures under Section
28 2704.095. If expenditures made are determined to be ineligible,
29 then the state has no obligation to reimburse for those
30 expenditures.

31 (3) The regional or local agency complies with all legal
32 requirements for the project, including the requirements of the
33 California Environmental Quality Act (Division 13 (commencing
34 with Section 21000) of the Public Resources Code).

35 (4) The expenditures were incurred after the project or project
36 component was programmed or otherwise approved for funding
37 by the commission.

38 (5) There is in the High-Speed Passenger Train Bond Fund an
39 appropriated amount sufficient to make the reimbursement

1 *payment. Nothing in this section requires the fund to be funded at*
2 *any particular time or in any particular amount.*

3 *(c) The California Transportation Commission and the regional*
4 *or local agency may enter into an agreement or agreements*
5 *governing reimbursement as described in this section.*

6 *(d) The California Transportation Commission, in consultation*
7 *with regional and local agencies, may develop guidelines to*
8 *implement this section. If the commission develops guidelines, it*
9 *shall, to the extent practicable, use the guidelines developed for*
10 *letters of no prejudice under Section 8879.501 of the Government*
11 *Code.*

12 *(e) Nothing in this section modifies any requirement under*
13 *Chapter 20 (commencing with Section 2704).*

14 *(f) For the purposes of this section, “letter of no prejudice”*
15 *means an agreement between a regional or local agency and the*
16 *California Transportation Commission that makes eligible for*
17 *future reimbursement from bond proceeds the expenditure of funds*
18 *under the control of the regional or local agency, subject to the*
19 *availability of bond funds, as provided in this section. The timing*
20 *and final amount of reimbursement is dependent on the terms of*
21 *the agreement and the availability of bond funds. The final amount*
22 *of reimbursement may be less than the amount stated in the letter*
23 *of no prejudice.*

24 ~~SECTION 1. Section 8879.79 is added to the Government~~
25 ~~Code, to read:~~

26 ~~8879.79. (a) The department, with the approval of the Director~~
27 ~~of Finance, may make a loan or loans from the State Highway~~
28 ~~Account of federal funds made available to it pursuant to the~~
29 ~~second round of federal transportation economic stimulus funds~~
30 ~~awarded to the state in 2010, for purposes of advancing a project,~~
31 ~~or a portion of a project, that has been programmed, on or before~~
32 ~~May 1, 2010, to be funded by Chapter 12.49 (commencing with~~
33 ~~Section 8879.20) and that is ready to be awarded within 90 days~~
34 ~~of federal apportionment. The board, as defined in subdivision (a)~~
35 ~~of Section 8879.22, may request the department to make a loan or~~
36 ~~loans. The aggregate amount of the request shall not exceed the~~
37 ~~amount of the unsold bonds that the committee, as defined in~~
38 ~~subdivision (b) of Section 8879.22, has, by resolution, authorized~~
39 ~~to be sold, less any amount loaned pursuant to Section 8879.31 or~~
40 ~~8879.77 or withdrawn pursuant to Section 8879.32. Any amount~~

1 ~~loaned shall be deposited in the fund, as defined by subdivision~~
2 ~~(c) of Section 8879.22, and shall be transferred to the appropriate~~
3 ~~account for the project, or portion of a project, being advanced.~~
4 ~~The loan or loans shall be repaid without interest to the State~~
5 ~~Highway Account from the proceeds of bonds sold pursuant to~~
6 ~~Chapter 12.49 (commencing with Section 8879.20). The board~~
7 ~~shall execute any documents as required by the department to~~
8 ~~obtain and repay the loan or loans.~~

9 ~~(b) Upon repayment of a loan made pursuant to subdivision (a),~~
10 ~~those funds shall be available for appropriation by the Legislature~~
11 ~~for the State Highway Operation and Protection Program.~~

12 SEC. 2. This act is an urgency statute necessary for the
13 immediate preservation of the public peace, health, or safety within
14 the meaning of Article IV of the Constitution and shall go into
15 immediate effect. The facts constituting the necessity are:

16 In order to ensure that federal funds received in 2010 are
17 expeditiously awarded to transportation projects *allow bond-funded*
18 *transportation projects to proceed as expeditiously as possible,*
19 and to benefit job retention in California, it is necessary that this
20 act take effect immediately.